CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:		CCRB Case #:		Force		Discourt.		U.S.
Patrick Browne		Squad #	5	201405893	3	Abuse		O.L.		Injury
Incident Date(s)		18 Mo. S	SOL	EO SOL	I	ocation of	Incid	ent:	Pre	cinct:
Friday 05/02/2014 6:10 PM		11-02-20	015	11-02-2015						101
Date/Time CV Reported		CV Rep	orted At:	How CV Repo	rted:	Date/Tin	ne Rec	eived at CC	RB	
Mon, 06/16/2014 9:11 AM		CCRB		Call Processing System	g	Mon, 06/	/16/20	14 9:11 AN	1	
Complainant/Victim	Type		Home Add	lress						
1.	Reportin Witness	g Non-		F	ar Roc	kaway NY				
2.	Victim			Fa	ar Roc	kaway NY				
3.	Victim			Fa	ar Roc	kaway NY				
Witness(es)			Home Add	lress				_		
1.						kaway NY				
2. 3.			Unknown	Far Rock	kaway	NY				
Subject Officer(s)	Shield		TaxID	Command						
1. POM				101 PCT						
2. POM Lukasz Solis	14287		943832	101 PCT						
3. SGT				101 PCT						
4. POM				101 PCT						
5. POM				101 PCT						
6. POM				101 PCT						
Officer(s)	Allegatio	on				Inv	estig	ator Recor	nme	ndation
A . SGT	Abuse of outside	f Authorit		stopped May 2, 2014.		Α.	Unst	ubstantiated	d	
B. SGT	Abuse of an and 2014.	f Authorit d	y: Sgt. outside	questione		May 2,	Exor	nerated		
C. SGT				threatene n's Services outsid		otify C.	Unsu	ubstantiated	1	
D. SGT	Abuse of	f Authorit	y: Sgt. and on May 2,			rrest D.	Unst	ubstantiated	d	
E. POM	Abuse of	f Authorit	<u> </u>	stopped on May 31, 20	14.	on E.	Subs	tantiated		
F. SGT		f Authorit the 101st		questione ionhouse on May			Exon	nerated		

Officer(s)	Allegation	Investigator Recommendation
G. SGT	Other Misconduct Noted: Sgt. failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	G . Other Misconduct
H . POM	Other Misconduct Noted: PO failed to prepare a memo book entry as required by Patrol Guide Procedure 212 -08.	H. Other Misconduct
I . POM Lukasz Solis	Other Misconduct Noted: PO Lukasz Solis failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	I. Other Misconduct
J. POM	Other Misconduct Noted: PO failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	J. Other Misconduct
K . POM	Other Misconduct Noted: PO failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	K . Other Misconduct
L. POM	Other Misconduct Noted: PO failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	L . Other Misconduct

Case Summary At approximately 6:10 p.m. on May 2, 2014, and were standing on the sidewalk outside Mr. house, located at in Far Rockaway, when Sgt. accompanied by PO Lukasz Solis, PO PO and allegedly other unidentified officers, approached and ordered them to stand against the fence (Allegation A). Sgt. then allegedly told Mr. that he had information regarding guns in the house and asked what he was doing there (Allegation B). replied that he and Mr. were just talking, Sgt. presented a piece of paper and asked Mr. to sign for consent to search the house. Mr. refused to do so. Shortly thereafter, Mr. mother, arrived and Sgt. explained the same to her, similarly asking her to sign a consent form to search the house (subsumed within **Allegation B**). It was alleged that over the course of the next several hours, Sgt. and his officers remained outside the house, preventing anyone from entering unless consent to search. During this time, it was alleged that Sgt. heard a baby crying inside the house and stated that ACS could take the child away (Allegation C). Sgt. also allegedly that if she did not sign the consent form, he would return with warrants to arrest everyone there (Allegation D). However, the officers ultimately left the scene without entering the location or making any arrests. At approximately 12:24 a.m. on May 31, 2014, Mr. and an unidentified individual were

At approximately 12:24 a.m. on May 31, 2014, Mr. and an unidentified individual were walking near the corner of and Street in Queens when they were approached by PO and PO Solis. PO allegedly ordered both civilians to stand against the police car (Allegation E) and asked them if they had anything on them (subsumed within Allegation E). The individual allegedly replied that he had nothing on him, at which point PO told him to leave. Mr. allegedly replied that he had a box cutter and pepper spray in his front hoodie pouch, so PO instructed him to slowly remove them and asked why he had those items. Mr. stated that he had been mugged a few days prior and needed them for his protection. PO allegedly then frisked Mr. entire body and stated that Mr. seemed familiar, so he asked for his full name, which Mr. provided. PO then called for assistance and Sgt. PO and PO responded to the scene. Sgt. PO and PO Solis then transported Mr. to the stationhouse where Sgt. again allegedly asked him to sign a consent form to search his home (Allegation F). When he refused, Sgt. reportedly went to speak to though she was not home.

Mediation, Civil and Criminal Histories

• Due to Mr. arrest and incarceration, this case was deemed ineligible for mediation. Mr. has several prior criminal convictions dating back to 2006 (encl. 30A-Ap), including for five counts of criminal possession of a weapon as the result of an arrest on October 24, 2009 (encl. 30Y-Ab). No notice of claim has been filed with the City of New York regarding this case (encl. 32A).

Civilian and Officer CCRB Histories

- Sgt. has been a member of the NYPD for twelve years and has been a subject in four prior cases (encl. 5A-B). One allegation of a frisk as part of case #201304499 was substantiated against him, for which he was issued instructions. However, his CCRB history does not reveal any pattern relevant to this case.
- PO has been a member of the NYPD for seven years and has been a subject in ten previous cases (encl. 6A-B). Two allegations—one of a stop and one of a retaliatory summons—were substantiated against him as the result of case #200816433.

Page 2 CCRB Case # 201405893 PO Solis has been a member of the NYPD for eight years and has been a subject in four previous cases (encl. 7A). Although he had no substantiated allegations against him, he has once been cited for failure to prepare a memo book entry.
PO has been a member of the NYPD for ten years and has been a subject in five previous cases (encl. 8A). One allegation of a vehicle search has been substantiated against him and he has once been cited for failure to prepare a memo book entry.
PO has been a member of the NYPD for ten years and has been a subject in seven previous cases (encl. 9A). One allegation of a vehicle search has been substantiated against him and he has once been cited for failure to prepare a memo book entry.
PO has been a member of the NYPD for fourteen years and has been a subject in

fourteen previous cases (encl. 10A-C). Although he had no substantiated allegations against him, he has once been cited for failure to prepare a memo book entry.

• This is the first CCRB complaint filed by equal or (encl. 11A-C).

Potential Issues

Mr. scheduled two separate appointments on July 18, 2014 and August 15, 2014, respectively. However, he missed both of these appointments without calling in advance to cancel or reschedule. Similarly, scheduled her first interview for July 15, 2014. After this appointment without calling in advance to cancel or reschedule, two phone calls were placed and two letters were mailed on July 17, 2014 and July 23, 2014, respectively, to reschedule the appointment. However, as of the date of this report, neither nor Mr. has contacted the CCRB to provide a statement.

Although both the civilians and the officers confirmed that several uniformed officers were also outside the house on May 2, 2014, none of officers interviewed could identify these additional officers and no police documentation provided any identifying information. Therefore, the investigation was unable to obtain additional witness officer statements.

Findings and Recommendations

Allegations Not Pleaded

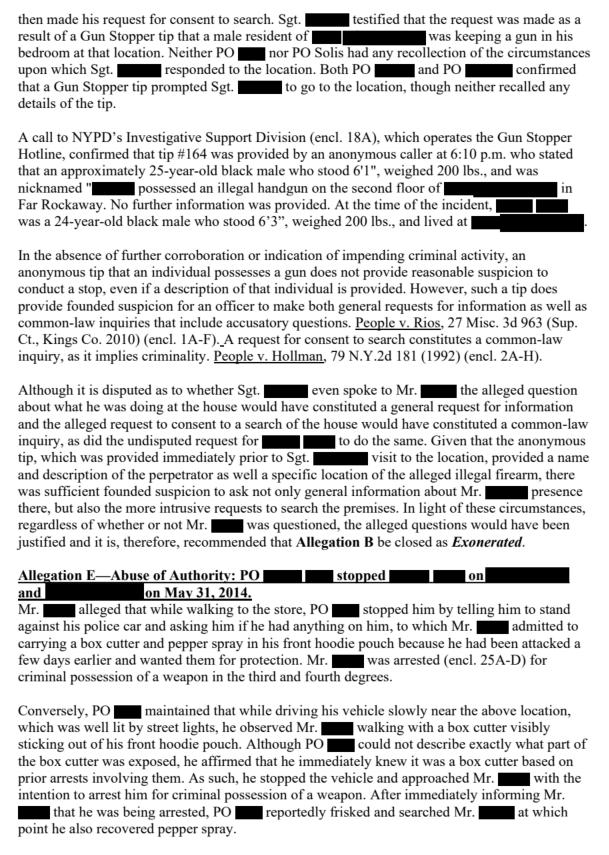
- Although it was alleged that Mr. was detained with Mr. that the threat of arrest included Mr. and and and that an officer used offensive sexual language towards these allegations could not be verified without sworn statements from either of those victims. Therefore, none of the above is pleaded.
- Although Mr. alleged that the individual with whom he was walking was also stopped and questioned, he was unable to provide his name or contact information, so the CCRB was unable to contact him. Therefore, no allegations are pleaded on his behalf.
- Although alleged that the officers would not allow her or anyone else to enter the house, there was no indication that they were not otherwise free to leave the location. Therefore, no stop allegation is pleaded on her behalf.
- Despite conflicting testimonies from Mr. and PO the frisk and search occurred, by both accounts, after it was determined that Mr. was under arrest. Regardless of the legality of the arrest, because they would have taken place incident to arrest, no frisk or search allegations are pleaded.

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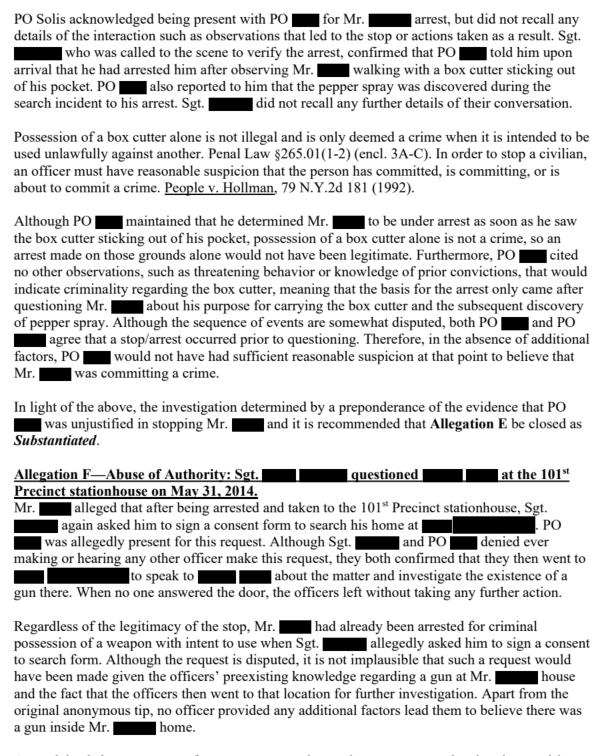
Investigative Findings and Recommendations

Allegation A—Abuse of Authority: Sgt.	stopped outside
on May 2, 2014.	
Allegation C—Abuse of Authority: Sgt.	threatened to notify the
Administration for Children's Services outside	
Allegation D—Abuse of Authority: Sgt.	threatened to arrest
and outside	on May 2, 2014.
Mr. encl. 17A-E) alleged that upon approach,	
the fence. (encl. 15A-F) confirmed that	
that he had Mr. detained. Both civilians allege	
heard a baby crying inside the house and star	
home. Both civilians also alleged that Sgt. the	reatened to arrest everyone present if they
did not sign a consent to search form.	
Conversely, Sgt. (encl. 19A-F) denied ever of anyone from either entering the house or leaving the civilian other than and denied ever three any civilian. Although the investigation determined to (encl. 21A-G), were present for at least part of Sgt. responding to the location or interacting with any civiliand PO (encl. 23A-F) both recalled stopping search warrant for a separate location. Although they to enter the entering entering the house or call ACS. Both officers maintained than five minutes. Only PO recalled there be	e location. He did not recall speaking to any eatening to call ACS for a child or to arrest that PO (encl. 20A-F) and PO Solis visit, neither had any recollection of vilians as alleged. PO (encl. 22A-D) g by the location on their way to obtain a y both reportedly saw Sgt. speaking ion, including any of the alleged threats to that they remained at the scene for no more
Had Sgt. instructed Mr. to stand against have needed to have reasonable suspicion that Mr. about to commit a crime. As discussed in the following to respond to the location would not have produced to the statements between independent witness testimony, the investigation was the evidence whether that stop occurred. For the same determine whether Sgt. threatened to call AC recommended that Allegations A, C, and D be closed	had committed, was committing, or was ing section, the information that caused Sgt. rovided reasonable suspicion for such a stop. In the civilians and officers, as well as a lack of its unable to determine by a preponderance of the reasons, the investigation was unable to CS or to arrest anyone. Therefore, it is
Allegation B—Abuse of Authority: Sgt.	questioned
outside on May 2, 2014.	
Mr. alleged that upon approach, Sgt.	nformed him that a confidential informant
reported guns inside the house and asked him what h	
reportedly replied that he was just chatting with Mr.	
a consent to search form. Mr. refused to do, all	legedly prompting Sgt. to ask to
speak with the owner of the house.	coincidentally approaching on foot at that
time, and it is undisputed that Sgt. approache	· 1
regarding a gun in the house, and requested that she	sign a consent form to search the premises.
Although Set denied anadring to an avestigate	ning anyone other than
Although Sgt. denied speaking to or question that he initially asked her if she was the owner of the	

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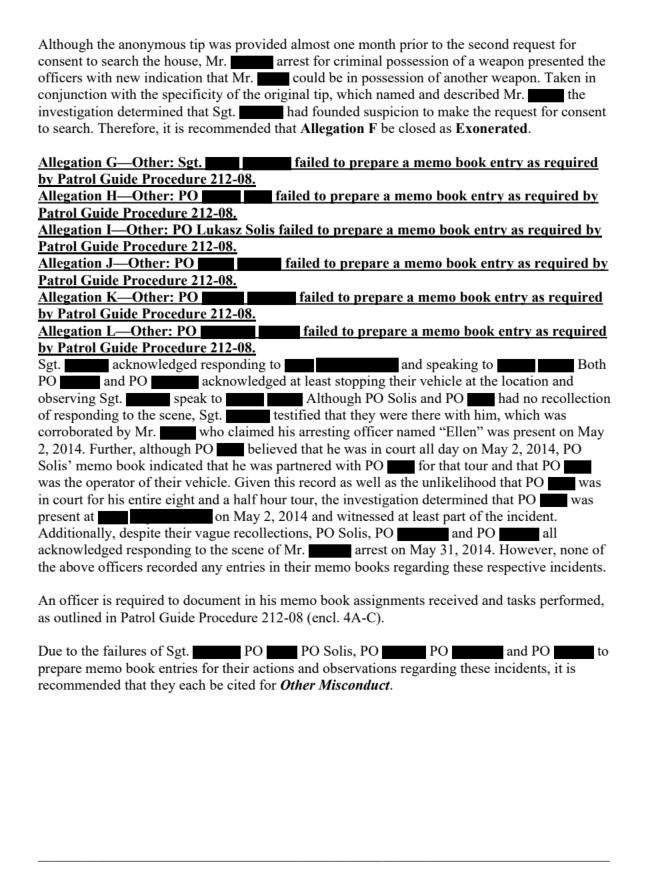


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As explained above, a request for consent to search constitutes a common-law inquiry requiring founded suspicion that criminality is afoot. <u>People v. Hollman</u>, 79 N.Y.2d 181 (1992).

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POD:		
Investigator: Signature	Print	Date
Supervisor:	Print	Date
Reviewer: Title/Signature	Print	Date
Reviewer:	Print	 Date